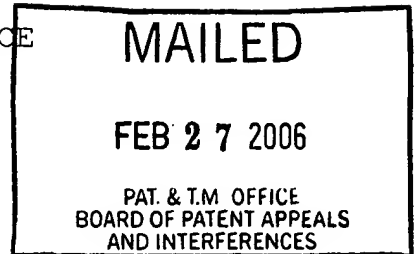


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES



Ex parte DANIEL W. HEPNER & ERIC M. SODERBERG

Application 09/422,998

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on January 27, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

On February 25, 2005, appellants filed a Notice of Appeal. On April 25, 2005, an Appeal Brief was filed. An Examiner's Answer was mailed to appellants on October 31, 2005. A Reply Brief was timely filed under the 37 C.F.R. § 41.41 on December 30, 2005. (§ 41.41). There is no indication on the record, that the Reply Brief was considered. 37 C.F.R. 41.43 reads as follows:

§ 41.43 Examiner's response to reply brief.

(a)(1) After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

(2) A supplemental examiner's answer responding to a reply brief may not include a new ground of rejection.

(b) If a supplemental examiner's answer is furnished by the examiner, appellant may file another reply brief under § 41.41 to any supplemental examiner's answer within two months from the date of the supplemental examiner's answer.

(c) Extensions of time under § 1.136(a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136(b) of this title for extensions of time to reply for patent applications.

Appropriate correction is required.

Accordingly,


ORDERED that the application is returned to the examiner:

Application 09/422,998

1. for a proper response to the Reply Brief filed  
December 30, 2005;
2. for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

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dms/DMS

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